

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Robert Kwan, Presiding
Courtroom 1675 Calendar**

Wednesday, April 12, 2017

Hearing Room 1675

10:30 AM

2:13-17409 Ayers Bath (U.S.A.), Co.,Ltd.

Chapter 7

#1.00 Cont'd hearing re: Tangshan Ayers Bath Equipment Co.'s motion to dismiss or, in the alternative, quash foremost groups motion to amend, for failure to serve Tangshan Ayers Bath Equipment Co.
fr. 3/21/17

Docket 72

Tentative Ruling:

No updated tentative ruling as of 4/7/17. Appearances are required on 4/12/17.

No tentative ruling as of 3/20/17. Appearances are required on 3/21/17.

Party Information

Debtor(s):

Ayers Bath (U.S.A.), Co.,Ltd.

Represented By
Jeffrey S Renzi

Trustee(s):

Alfred H Siegel (TR)

Represented By
Anthony A Friedman

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10:30 AM

2:13-17409 Ayers Bath (U.S.A.), Co.,Ltd.

Chapter 7

#2.00 Cont'd hearing re: Motion of Foremost Group, Inc. to amend the judgment of the bankruptcy court to add Tangshan Ayers Bath Equipment Co. Ltd. as judgment debtor fr. 2/7/17, 3/21/17

Docket 66

Tentative Ruling:

No updated tentative ruling as of 4/7/17. Appearances are required on 4/12/17.

Prior tentative ruling as of 3/20/17. No tentative ruling on the merits. Appearances are required on 3/21/17.

Prior tentative ruling. Treat motion to amend judgment as a contested matter under FRBP 9014 and schedule pretrial and trial proceedings. As noted in California Civil Practice Business Litigation Section 5.29 (online Westlaw edition, October 2016 update), "[i]n order for the court to grant the motion, two requirements must be met: (1) the new party must be the alter ego of the old party, and (2) in order to satisfy the due process concerns, the new party must have controlled the litigation. Absent such control, the [alleged] alter ego is a true nonparty." *Id.*, citing inter alia, *Minton v. Cavaney*, 56 Cal.2d 576 (1961) and *In re Levander*, 180 F.3d 1114 (9th Cir. 1999). "Use of the procedure under [Cal.] Code Civ.Proc. [Section] 187 against an alter ego is limited by due process. The procedure is only proper if the alter ego defendant had control of the previous litigation and occasion to conduct it with a diligence corresponding to the risk of personal liability that was involved. Control of the litigation contemplates some active defense." *Id.*, citing *NEC Electronics Inc. v. Hurt*, 208 Cal.App.3d 772 (1989). It seems to the court that it will have to resolve the factual issue of litigation control which may require an evidentiary hearing. If there is no control, the motion should be denied for lack of personal jurisdiction, but if there is control and adequate proof of alter ego, then the motion should be granted. On this record, there is a colorable claim of control here since the debtor's bankruptcy schedules list the alleged alter ego as the 100% owner of debtor and the source of payment for fee of counsel who filed the bankruptcy petition for debtor (i.e., funding the debtor

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CONT... Ayers Bath (U.S.A.), Co.,Ltd.

Chapter 7

subsidiary's bankruptcy to hinder, delay or defraud movant in its nonbankruptcy collection litigation might be plausibly found by a reasonable bankruptcy judge as the trier of fact to be "some active defense") as well as other indicia of control with officers acting in dual capacities for debtor and its parent, the alleged alter ego. At this point in the litigation, movant does not want to go through the formalities of service of process on the alleged alter ego as a foreign entity, and the court is not going to insist on that first, in that movant has a colorable claim of control to assert, which claim the court does not intimate any ruling on the merits since this is a contested matter for which the court should accord the alleged alter ego as the opposing party an opportunity to defend on the merits, including lack of personal jurisdiction, lack of control and lack of alter ego liability. Thus, the court will reserve ruling on the merits of the motion until the matter is fully and fairly litigated. Appearances are required on 2/7/17, but counsel may appear by telephone. Counsel for the parties should confer regarding their pretrial needs before the hearing if they can.

Party Information

Debtor(s):

Ayers Bath (U.S.A.), Co.,Ltd.

Represented By
Jeffrey S Renzi

Trustee(s):

Alfred H Siegel (TR)

Represented By
Anthony A Friedman

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Hearing Room 1675

11:00 AM

2:13-28484 Pasadena Adult Residential Care, Inc

Chapter 7

#3.00 Cont'd status conference re: New operator license
fr. 1/11/17, 2/8/17

Docket 656

Tentative Ruling:

Updated tentative ruling as of 4/10/17. No tentative ruling on the merits.
Appearances are required on 4/12/17, but counsel may appear by telephone.

Prior tentative ruling as of 2/6/17. No tentative ruling on the merits.
Appearances are required on 2/8/17, but counsel may appear by telephone.

Prior tentative ruling. The court has reviewed trustee's status report. No
tentative ruling on the merits. Appearances are required on 1/11/17, but
counsel may appear by telephone.

Party Information

Debtor(s):

Pasadena Adult Residential Care, Inc

Represented By
Hamid R Rafatjoo
Joyce H Vega

Trustee(s):

Peter J Mastan (TR)

Represented By
Dawn A Messick
Christopher Celentino
Ballard Spahr LLP

**United States Bankruptcy Court
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Wednesday, April 12, 2017

Hearing Room 1675

11:00 AM

2:15-27143 Don P. Chairez and Maria J. Chairez

Chapter 11

#4.00 Status conference re: Management of chapter 11 case
fr. TD

Docket 101

Tentative Ruling:

The court has reviewed debtors' status report. No tentative ruling on the merits. Appearances are required on 4/12/17, but counsel may appear by telephone in accordance with the court's telephonic appearance procedures.

Party Information

Debtor(s):

Don P. Chairez

Represented By
Jeffrey A Cogan
Jeffrey A Cogan

Joint Debtor(s):

Maria J. Chairez

Represented By
Jeffrey A Cogan

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Wednesday, April 12, 2017

Hearing Room 1675

11:00 AM

2:16-15322 Curtis C. Magleby

Chapter 11

#5.00 Hearing re: Motion for order approving debtor's stipulations with First Republic and Charles Schwab Banks for allowance and treatment of claims pursuant to FRBP 9019

Docket 220

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Curtis C. Magleby

Represented By
Illyssa I Fogel

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Wednesday, April 12, 2017

Hearing Room 1675

11:00 AM

2:16-15322 Curtis C. Magleby

Chapter 11

#6.00 Hearing re: Motion for order approving debtor's stipulation with the LA County Treasurer and Tax Collector for allowance and payment of pre-petition and administrative claims pursuant to FRBP 9019

Docket 235

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Curtis C. Magleby

Represented By
Illyssa I Fogel

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Hearing Room 1675

11:00 AM

2:16-15322 Curtis C. Magleby

Chapter 11

#7.00 Hearing re: Creditor CB Franchise System, LLC's motion for enforcement of settlement agreement

Docket 231

***** VACATED *** REASON: Notice of withdrawal filed on 3/23/17-mb.**

Tentative Ruling:

Off calendar. Motion withdrawn by notice filed on 3/23/17. No appearances are necessary.

Party Information

Debtor(s):

Curtis C. Magleby

Represented By
Illyssa I Fogel

**United States Bankruptcy Court
Central District of California
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Wednesday, April 12, 2017

Hearing Room 1675

11:00 AM

2:16-15570 St Luke Baptist Church

Chapter 11

#8.00 Cont'd status conference re: Management of chapter 11 case
fr. 10/19/16, 1/25/17, 2/15/17

Docket 1

Tentative Ruling:

Updated tentative ruling as of 4/10/17. No tentative ruling on the merits. Appearances are required on 4/12/17 to address when debtor will be submitting a proposed order for dismissal of the case, but counsel may appear by telephone.

Prior tentative ruling as of 2/13/17. The court has reviewed debtor's status report. If debtor is considering a "structured" dismissal, it will have to show that there are grounds sufficient to warrant deviation from the normal procedures expressly provided in the Bankruptcy Code, i.e., a liquidating plan, case conversion or straight dismissal without conditions, or whether more broadly, whether structured dismissals are permitted at all, which may be at issue before the Supreme Court in *In re Jevic Holding Corp.*, 787 F.3d 173 (3rd Cir. 2015), cert. granted, *Czyzewski v. Jevic Holding Corp.* 136 S.Ct. 2541 (2016). See also, Transcript of Oral Argument, *Czyzewski v. Jevic Holding Corp.*, No. 15-649 (S.Ct., argued December 7, 2016); see also, e.g., Salerno, Hansen, Meyer, Schuster and Barsharis, *Advanced Chapter 11 Bankruptcy Practice*, Section 12.22 (2nd ed. online, 2016 Cum. Supp.); Greenberg, Smith and Taylor, "The Elephant Hiding in the Mousehole": *In re Jevic*, 2016 No. 10 Norton Bankr. L. Adviser NL 1 (online ed., October 2016); Pernick and Dean, "Structured Chapter 11 Dismissals: A Viable and Growing Alternative After Asset Sales," 29 Am. Bankr. Inst. J. 1 (June 2010); Eitel, Tinker and Lambert, "Structured Dismissals, or Cases Dismissed Outside of Code's Structure?", 30 Am. Bankr. Inst. J. 20 (March 2011). Appearances are required on 2/15/17, but counsel may appear by telephone.

Prior tentative ruling as of 1/23/17. The court has reviewed debtor's status report. Appearances are required on 1/25/17, but counsel may appear by telephone.

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Hearing Room 1675

11:00 AM

CONT... St Luke Baptist Church

Chapter 11

Prior tentative ruling as of 10/17/16. Appearances are required on 10/19/16, but counsel may appear by telephone.

Prior tentative ruling as of 10/17/16. No tentative ruling on the merits. Appearances are required on 10/19/16, but counsel may appear by telephone.

Prior tentative ruling as of 10/3/16. No tentative ruling on the merits. Appearances are required on 10/4/16, but counsel may appear by telephone.

Prior tentative ruling as of 9/2/16. No tentative ruling on the merits. Appearances are required on 9/6/16, but counsel may appear by telephone.

Prior tentative ruling as of 8/8/16. No tentative ruling on the merits. Appearances are required on 8/10/16, but counsel may appear by telephone.

Prior tentative ruling as of 7/18/16. No tentative ruling on the merits. Appearances are required on 7/21/16.

Prior tentative ruling as of 7/12/16. The court has reviewed debtor's status report. No tentative ruling on the merits. Appearances are required on 7/13/16.

Prior tentative ruling as of 6/16/16. Appearances are required on 6/17/16, but counsel may appear by telephone.

Prior tentative ruling. The status conference will be conducted on the 11:30 a.m. calendar with the hearing on the motion of the United States Trustee to dismiss, convert or appoint trustee. Impose sanctions of \$250 against debtor and counsel for failure to file a timely written status report as set forth in the court's order filed on 4/29/16 (ECF 2), or dismiss the case for lack of prosecution for this reason.

Appearances are required on 6/15/16 at 11:30 a.m. No appearances are required at 11:00 a.m.

Party Information

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11:00 AM

CONT... St Luke Baptist Church

Chapter 11

Debtor(s):

St Luke Baptist Church

Represented By
Michele A Dobson

**United States Bankruptcy Court
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Hearing Room 1675

11:00 AM

2:16-22120 Trifecta Fit Sport, LLC

Chapter 11

#9.00 Cont'd status conference re: Management of chapter 11 case
fr. 11/2/16, 11/16/16, 2/15/17

Docket 1

***** VACATED *** REASON: Case dismissed per order entered on
2/16/17; Case closed on 3/13/17-mb.**

Tentative Ruling:

Off calendar. Status conference is moot since case was dismissed on
2/16/17. No appearances are necessary.

Party Information

Debtor(s):

Trifecta Fit Sport, LLC

Represented By
Clifford Bordeaux

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Hearing Room 1675

11:00 AM

2:16-24758 Swing House Rehearsal and Recording, Inc.

Chapter 11

#10.00 Cont'd status conference re: Management of chapter 11 case
fr. 1/4/17, 1/11/17

Docket 1

Tentative Ruling:

Updated tentative ruling as of 4/10/17. No tentative ruling on the merits.
Appearances are required on 4/12/17, but counsel may appear by telephone.

Prior tentative ruling. The court has reviewed debtor's status report. No
tentative ruling on the merits. Appearances are required on 1/11/17, but
counsel may appear by telephone.

Party Information

Debtor(s):

Swing House Rehearsal and

Represented By
Kurt Ramlo

**United States Bankruptcy Court
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Hearing Room 1675

11:00 AM

2:16-24760 Philip Joseph Jaurigui

Chapter 11

#11.00 Cont'd status conference re: Management of chapter 11 case
fr. 1/4/17, 1/11/17

Docket 1

Tentative Ruling:

Updated tentative ruling as of 4/10/17. No tentative ruling on the merits.
Appearances are required on 4/12/17, but counsel may appear by telephone.

Prior tentative ruling. The court has reviewed debtor's status report. No
tentative ruling on the merits. Appearances are required on 1/11/17, but
counsel may appear by telephone.

Party Information

Debtor(s):

Philip Joseph Jaurigui

Represented By
Leonard Pena

**United States Bankruptcy Court
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Hearing Room 1675

11:00 AM

2:16-25844 Essential Living Foods, Inc.

Chapter 11

#12.00 Hearing re: Debtor's motion to convert case under 11 U.S.C. §§706(a) or 1112(a)

Docket 98

Tentative Ruling:

Grant debtor's motion to convert to Chapter 7 pursuant to 11 U.S.C. 1112(a) since debtor is not disqualified from converting under that provision and there is no timely written opposition to the motion. Appearances are required on 4/12/17, but counsel may appear by telephone.

Party Information

Debtor(s):

Essential Living Foods, Inc.

Represented By
James R Selth
Elaine Nguyen

**United States Bankruptcy Court
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Wednesday, April 12, 2017

Hearing Room 1675

11:00 AM

2:16-25844 Essential Living Foods, Inc.

Chapter 11

#13.00 Hearing re: First and final application for allowance of fees and reimbursement of expenses of Weintraub & Selth, APC

Docket 87

Tentative Ruling:

The court is not inclined to review and approve the fee application of counsel for debtor on a final basis since the case is likely to be converted to Chapter 7 and subject to the provisions of Local Bankruptcy Rule 2016-1(c)(4) that final fee applications of professionals in a Chapter 7 case be set for hearing with the Chapter 7 trustee's final application for allowance and payment of fees and expenses. Appearances are required on 4/12/17, but counsel may appear by telephone.

Party Information

Debtor(s):

Essential Living Foods, Inc.

Represented By
James R Selth
Elaine Nguyen

**United States Bankruptcy Court
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Hearing Room 1675

11:00 AM

2:16-25844 Essential Living Foods, Inc.

Chapter 11

#14.00 Hearing re: First and final fee application for allowance of fees of Hiramatsu & Associates, Inc., as financial consultant to debtor

Docket 86

Tentative Ruling:

The court is not inclined to review and approve the fee application of financial consultant for debtor on a final basis since the case is likely to be converted to Chapter 7 and subject to the provisions of Local Bankruptcy Rule 2016-1(c) (4) that final fee applications of professionals in a Chapter 7 case be set for hearing with the Chapter 7 trustee's final application for allowance and payment of fees and expenses. Appearances are required on 4/12/17, but counsel and applicant may appear by telephone.

Party Information

Debtor(s):

Essential Living Foods, Inc.

Represented By
James R Selth
Elaine Nguyen

**United States Bankruptcy Court
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Wednesday, April 12, 2017

Hearing Room 1675

11:30 AM

2:17-10698 Notesettlors LLC

Chapter 7

#15.00 Hearing re: Order to show cause why case should not be dismissed pursuant to Local Bankruptcy Rule 9011-2(a)

Docket 11

Tentative Ruling:

No tentative ruling as of 4/10/17. Appearances are required on 4/12/17.

Party Information

Debtor(s):

Notesettlors LLC

Pro Se

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, April 12, 2017

Hearing Room 1675

2:00 PM

2:05-39946 ARSHAG J MINELIAN

Chapter 7

Adv#: 2:13-02021 Shannahan v. Minelian et al

#16.00 Hearing re: Closing argument for the trial re third amended complaint for non-dischargeability for: debts incurred through false pretenses, false representation or actual fraud under 11 U.S.C.
§ 523(a)(2)(A)

Docket 138

***** VACATED *** REASON: Cont'd from 4/12/17 to 4/19/17 at 2:00 p.m.
per stip & order entered on 3/27/17-st**

Tentative Ruling:

Off calendar. Continued by stipulation and order to 4/19/17 at 2:00 p.m. No appearances are required on 4/12/17.

Party Information

Debtor(s):

ARSHAG J MINELIAN

Represented By
Mark M Sharf

Defendant(s):

Arshag J Minelian

Represented By
James R Felton
Yi S Kim

Arshag J Minelian

Represented By
Yi S Kim

Plaintiff(s):

Michael Shannahan

Represented By
Ronald P Slates
James Bulger
Daren M Schlecter

Trustee(s):

David L Ray (TR)

Pro Se